

Remarks and Arguments

Claims 1 – 12 have been rejected under 35 U.S.C. 103(a), obviousness, as being unpatentable over Coffin et al. (US Pat. No. 5,768,647) hereinafter Coffin '647.

According to *In Re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991), in order to support a *prima facie* case for obviousness using a particular set of references, the references must exhibit the following attributes:

- (a) The prior art references must collectively teach or suggest all of the claim limitations in the application;
- (b) There must be a reasonable expectation of success in modifying the reference; and
- (c) The references must suggest or provide some motivation to modify and / or combine the reference teachings.

Applicant notes that the Office Action directly admits that the Coffin '647 reference fails to teach the positioning of a display retractor system. Rather, Coffin '647 teaches, as admitted by the Office Action, a camera positioning system. As such, Coffin '647 fails to teach "an actuator for positioning a display system" (Applicant's Claim 1). Coffin '647 also fails to disclose an indicator plate. Because the one cited reference has not been combined with any other reference, Coffin must explicitly teach each and every claim limitation (modifications of the references teachings are not allowed when considering this requirement of a *prima facie* case). Coffin '647 does not satisfy the requirements for a *prima facie* case. Based on this alone, the Office Action has failed to establish a *prima facie* case for obviousness and Applicant respectfully submits that the rejection of Claims 1 – 12 under 35 U.S.C. 103(a) must be withdrawn.

In order to modify Coffin '647, the Office Action must demonstrate that the reference suggests, or otherwise would motivate one skilled in the art to modify the reference in a manner that would yield the present invention.

Here, Coffin '647 makes no suggestion that his teachings could be modified to yield the claimed invention.

In lieu of a suggestion by the reference itself to modify the reference, motivation to modify the reference can come from ordinary knowledge endowed in persons skilled in the art. In order to rely on this ordinary knowledge, according to *Ex Parte Clapp*, 227 USPQ 972, 973 (Bd. Pat. App. & Inter. 1985), "... the examiner must present a convincing line of reasoning as to why the artisan would have found the claimed invention obvious in light of the teachings of the references"

The Office Action falls short of this requirement with the statements *"Hence, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to replace the camera assembly with a display assembly to perform the well known functions claimed" and "the replacement would have been an obvious design choice"*. Without intending any disrespect to the Examiner, the Applicant ponders how the Examiner draws these conclusions without any underlying discussion or presentation of the state of the art at the time of the instant invention. The Office Action has not presented a "convincing line of reasoning". The Examiner has simply *concluded* obviousness. This he can not do. The Applicant continues to aver, in light of this unsubstantiated conclusion of obviousness, that the Examiner has impermissibly used hindsight to modify the Coffin '647 reference. Applicant avers that the Examiner has gleaned the knowledge to modify the reference from the Applicant's application.

Even though further analysis is not required, Applicant further notes that in order to support a rejection of a claim under 35 U.S.C. 103(a), a modification of a reference must not render the original teachings unfit for their intended purpose (*In Re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984)).

Here, modification of the camera positioning device taught by Coffin '647 would totally compromise the intended purpose of Coffin's device. The Office Action admits that, in order to render the claimed invention, Coffin '647 would need to be modified by replacing the camera assembly with a display assembly. This modification renders Coffin '647 unfit for its intended purpose. Additionally, to modify Coffin '647 to support a display device would preclude it from supporting a projection device because the projection device in Coffin '647 requires a counter-spring 70 that would need to be removed to allow unobstructed viewing of a display screen. By removing the counter-spring 70, the camera would be entirely cantilevered and the support platform would not be able to move about its intended axis of rotation 52. Also, in order to provide the requisite movement to support a display device, the base plate that supports the camera would need to rotate far beyond what the actuator arm 40 in Coffin '647 would allow. Hence, a different movement mechanism would be required and such modification would not allow for movement of the camera as Coffin '647 originally intended.

According to *In re Oetiker*, 977 F.2d 1443, 1446, 24 USPQ2d 1443, 1445 (Fed. Cir. 1992), references used to support a rejection under 35 USC 103 must be founded in analogous art. The reference must be in the applicant's field of endeavor, if not, then reasonably pertinent to the particular problem with which the inventor was concerned.

Here, it is clear that the art of projection of an image is disparate from the art of displaying an image on a display device. Although these two arts appear similar, they are non-analogous art. It is clear that controlling camera movement

would not be a source of inspiration for an applicant concerned with arresting the movement of a display device actuator as presently claimed.

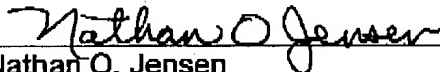
Regarding Claim 3, the Examiner has taken official notice that electric motors and linear motors can be used interchangeably. Applicant disagrees. Applicant respectfully requests that the Examiner personally execute and deliver to the Applicant an original affidavit containing supporting facts to substantiate the Examiner's claim of obviousness with respect to how these two different types of motors can be used interchangeably in the claimed invention. *Should the Patent Office choose to claim that any of the claims in the present invention are obvious under an official notice, then the Examiner must, at applicant's request, submit an affidavit containing supported facts that substantiate the Examiner's claim of obviousness (MPEP 2144.03).*

Regarding Claim 7, the Examiner has taken official notice that mechanical switched and optical sensors can be used interchangeably. Applicant disagrees. Applicant respectfully requests that the Examiner personally execute and deliver to the Applicant an original affidavit containing supporting facts to substantiate the Examiner's claim of obviousness with respect to how these two different types of sensors can be used interchangeably in the claimed invention.

Regarding all dependent claims, Applicant deems all rejections of dependent claims to be moot in light of Applicant's showing that Coffin '647 can not be used to sustain a rejection of Claims 1 and 8 under authority of 35 USC § 103(a). Applicant thereby avers that the dependant Claims 2 through 7, inclusive, all of which stem from Claim 1, are non-obvious. Applicant also avers that the dependant Claims 9 through 12, inclusive, all of which stem from Claim 8, are non-obvious. This is supported by *In re Fine*, 837, F.2d 1071, 5 USPQ2d 1596, Fed. Cir. 1988 wherein it was found that if an independent claim is non-obvious under 35 USC § 103, then any claim depending there from is non-obvious.

Based on the foregoing, Applicant considers the present invention to be distinguished from the art of record. Accordingly, Applicant respectfully solicits the Examiner's withdrawal of the rejections raised in the above referenced Office Action, such that a Notice of Allowance is forwarded to Applicant, and the present application is therefore allowed to issue as a United States patent.

Respectfully submitted,


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